

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

United States of America,  
  
Petitioner,  
  
v.  
  
Dennis C. Elwess,  
  
Respondent.

No. MC-13-00045-PHX-GMS

**ORDER**

This matter is before the Court on the United States' Motion to Reschedule the Show Cause Hearing (Doc. 4) scheduled for August 9, 2013. The Court having reviewed the motion, and good cause appearing,

**IT IS HEREBY ORDERED** that the United States' Motion is granted.

**IT IS FURTHER ORDERED** vacating the August 9, 2013 hearing and that Respondent, Dennis C. Elwess, appear before the Honorable Judge G. Murray Snow in the Sandra Day O'Connor United States Courthouse, located at 401 West Washington Street, Phoenix, Arizona 85003, 6th Floor, Courtroom No. 622, on **November 8, 2013 at 9:00 a.m.** to show cause why he should not be compelled to obey and comply with the IRS summons served on him by Revenue Officer Leon.

**IT IS FURTHER ORDERED** that a copy of this Order, together with a copy of the Petition and its exhibits, shall be served upon Mr. Elwess in accordance with Rule 4 of the Federal Rules of Civil Procedure within thirty (30) days of the date that this Order is served upon counsel for the United States or as soon thereafter as possible. Alternatively,

1 the documents may be served on Mr. Elwess's attorney within thirty (30) days of the date  
2 that this Order is served upon counsel for the United States or as soon thereafter as  
3 possible, if Mr. Elwess's attorney agrees to accept service on his behalf. Pursuant to  
4 Federal Rule of Civil Procedure 4.1(a), the Court hereby appoints Revenue Officer Leon,  
5 or any other person designated by the IRS, to effect service in this case.

6 **IT IS FURTHER ORDERED** that proof of service shall be filed with the Clerk as  
7 soon as practicable.

8 **IT IS FURTHER ORDERED** that because the Declaration attached to the  
9 Petition constitutes a prima facie showing that the investigation is being conducted for a  
10 legitimate purpose, that the inquiries are relevant to that purpose, that the information  
11 sought is not already within the possession of the IRS, and that the administrative steps  
12 required by the Internal Revenue Code have been substantially followed, the burden of  
13 coming forward has shifted to Mr. Elwess to oppose enforcement of the summons.

14 **IT IS FURTHER ORDERED** that if Mr. Elwess has any defense to present, or  
15 opposition to the Petition, such defense or opposition shall be made in writing and shall be  
16 filed with the Clerk, with copies served on counsel for the United States, at least fourteen  
17 (14) days prior to the date set for the show-cause hearing. The United States may file a  
18 reply to any opposition at least five (5) days prior to the date set for the show-cause  
19 hearing.

20 **IT IS FURTHER ORDERED** that at the show-cause hearing, only those issues  
21 brought into controversy by the responsive pleadings and factual allegations supported by  
22 affidavit will be considered. Any uncontested allegations in the Petition will be  
23 considered admitted.

24 **IT IS FURTHER ORDERED** that Mr. Elwess may notify the Court, in a writing  
25 filed with the Clerk and served on counsel for the United States at the address on the  
26 Petition at least fourteen (14) days prior to the show-cause hearing, that Mr. Elwess has no  
27 objection to enforcement of the summons. Mr. Elwess's appearance at the hearing will  
28 then be excused, and an order enforcing the Summons will be entered.

Dated this 30th day of July, 2013.

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